

# **Maine Center for Disease Control and Prevention WIC Nutrition Program**

Effective: October 1, 2012

Policy No. OM-7

Revised: October 1, 2015

## **Participant Abuse of WIC Funds and Services**

### **Authority**

7 CFR §246.12(u); §246.23; §246.9

22 MRSA §255 and §1951

10-144 CMR Chapter 286, § II.I

1. State and Local Agency staff shall immediately investigate all claims of participant abuse of WIC funds and/or services.
2. Any findings of participant abuse shall be sanctioned appropriately.
3. WIC food benefits are intended only for the enrolled WIC participant who is a resident of the state of Maine.

### **Procedures**

1. Examples of participant abuse of the Maine CDC WIC Nutrition program include but are not limited to the following:
  - 1.1 Participating in more than one WIC program simultaneously (dual participation; see Policy OM-9 *Dual Participation*).
  - 1.2 Intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts. This includes, but is not limited to, information concerning income, family size, residence and medical history.
  - 1.3 Sale, exchange or use of WIC checks, eWIC cards, WIC food items or WIC loaner breast pumps by individuals or parties who are not program participants.
  - 1.4 Altering a WIC check or eWIC card.
  - 1.5 Receiving cash for WIC checks or eWIC cards from vendors, or credit toward the purchase of unauthorized foods or other items of value in place of approved WIC foods.
  - 1.6 The offer, intent or attempt to sell WIC food items, WIC loaner electric breast pumps, WIC checks, and/or eWIC cards.

- 1.7 The failure to return a loaner electric breast pump when authorized loan time period has expired, or the offer, intent or attempt to sell a loaner electric breast pump.
- 1.8 Speaking to clinic staff, vendor personnel, and/or other WIC participants in a threatening, discriminatory or derogatory manner.
- 1.9 Physically assaulting or inappropriate physical contact with clinic staff, vendor personnel and/or other WIC participants.
- 1.10 Intentionally damaging WIC clinic or vendor property.
2. If the State Agency determines that program benefits have been obtained or disposed of improperly as the result of participant abuse, the State Agency shall establish a claim against the participant for the full value of such benefits.
  - 2.1 For all claims, the State Agency shall issue a certified letter (see Appendix OM-A2 *Sample Participant Abuse Letter*) requiring repayment, including:
    - 2.1.1 Notification that the participant shall pay full value of the claim or request a repayment schedule which specifies repayment frequency and amount;
    - 2.1.2 A warning statement that failure to pay the claim or any subsequent violation shall result in disqualification;
    - 2.1.3 Information on the process to appeal the decision requiring repayment of the claim, including the procedures to follow to obtain a fair hearing, pursuant to DHHS Administrative Hearing Rule, Chapter 1.
  - 2.2 If full restitution is not made, or a repayment schedule is not agreed on within thirty (30) days of receipt of the letter, the State Agency shall take additional collections action until restitution is made or a repayment schedule is agreed upon, unless the State Agency determines that further collections action would not be cost effective.
    - 2.2.1 Cost benefit analysis shall include number of State Agency and/or local agency staff hours, legal expenses, total value of claim involved, and/or the nature of the fraudulent actions.
  - 2.3 Failure to pay the claim shall result in:
    - 2.3.1 Referral to the DHHS Fraud Investigation and Recovery Unit
    - 2.3.2 Potential disqualification
  - 2.4 Restitution may not include offsetting the claim against future program benefits, even if agreed to by the participant or the parent or caretaker of an infant or child participant.

3. The State Agency shall document the disposition of all participant claims. In addition to establishing a claim, the State Agency must determine whether participant disqualification is required pursuant to 7 CFR §246.12(u)(2).
  - 3.1 At the time the State Agency notifies a participant of disqualification, the State Agency shall advise the participant of the procedures to obtain a fair hearing (See DHHS Administrative Fair Hearing policy)
  - 3.2 The State Agency shall require mandatory disqualification whenever one or more of the following is assessed:
    - 3.2.1 A claim of greater than or equal to \$100
    - 3.2.2 A claim of dual participation
    - 3.2.3 A second claim or subsequent claim of any amount
  - 3.3 The State Agency may decide not to impose a mandatory disqualification if:
    - 3.3.1 Within thirty (30) days of receipt of the letter requiring repayment, full restitution is made;
    - 3.3.2 A repayment schedule is agreed on; or
    - 3.3.3 In the case of a participant who is an infant, child or under age 18, the State Agency approves the designation of a proxy
  - 3.4 The State Agency may permit a participant to reapply for the Program before the end of a mandatory disqualification period in the following circumstances:
    - 3.4.1 Full restitution is made or a repayment schedule is agreed upon or,
    - 3.4.2 In the case of a participant who is an infant, child or under age 18, the State Agency approves the designation of a proxy.
  - 3.5 The State Agency may suspend participants from the Maine CDC WIC Nutrition Program for up to three (3) months when notified, by local agency reports or other sources, of the following circumstances:
    - 3.5.1 When a participant or any other person acting on behalf of the participant speaks to clinic staff, vendor personnel, and/or other WIC participants in a threatening, discriminatory or derogatory manner.
    - 3.5.2 When a participant or any other person acting on behalf of the participant physically assaults clinic staff, vendor personnel, and/or other WIC participants. Local Agency staff shall also contact the local police and the State Agency in such an instance.

- 3.5.3 When a participant or any other person acting on behalf of the participant intentionally damages WIC clinic or vendor property.
- 3.5.4 When a participant or any other person acting on behalf of the participant alters a WIC food instrument, including the client or authorized representative names, authorized representative or proxy signatures, identification numbers, dates or quantities or types of foods, or an eWIC card, including the personal account number (PAN).
- 3.6 In all cases of suspension or termination from the program, the participant must receive written notice of suspension or termination not less than fifteen (15) days before the suspension or termination.
  - 3.6.1 The State Agency shall send written notice of suspension or termination from the program to the participant.
  - 3.6.2 A copy of the written notice shall be maintained in the participant's electronic record.
  - 3.6.3 The *Notification of Appeal Procedure* form (Appendix OM-A3) must be completed, including documentation of the specific program abuse, and sent along with the written notice of suspension/termination to the participant.
- 4. The State Agency shall refer cases of program fraud and abuse of food benefits and/or services to the DHHS Fraud Investigation and Recovery Unit when fraud and/or program abuse is suspected or confirmed.
  - 4.1 Local Agency staff shall report all cases of suspected fraud and/or program abuse to the State Agency, including all known details of the situation.
  - 4.2 Suspected fraud/abuse of the program which shall be referred includes but is not limited to:
    - 4.2.1 Sale of, or intent or attempt to sell WIC foods
    - 4.2.2 Sale of, or intent or attempt to sell WIC FIs (including eWIC benefit cards and/or WIC checks)
    - 4.2.3 Sale of, or intent or attempt to sell WIC loaner electric breastpump
    - 4.2.4 Refusal to return WIC loaner electric breastpump when authorized loaner period has expired
    - 4.2.5 Intentional misrepresentation of family size and/or income
    - 4.2.6 Intentional misrepresentation of Maine residence

- 4.2.7 Intentional misrepresentation of relationship to WIC participant
  - 4.2.8 Continued redemption of WIC FIs by a parent/authorized representative for a child who is no longer in the parent or authorized representative's care or custody
  - 4.2.9 Continued redemption of WIC FIs after a participant has moved out of the state
  - 4.2.10 Misrepresentation of being pregnant, <6 months postpartum, or breastfeeding
- 4.3 All actions taken as a result of participant abuse must be documented in the participant's file. This includes, but is not limited to, verbal warnings, written warnings, suspensions, and/or terminations.
- 4.4 The local agency shall send the participant a warning letter before imposing ( )sanctions. If a warning letter is sent, the local agency must send a copy of the letter to the State Agency.